

disclosed to the public. In this situation, the Internal Revenue Service will not agree with X's argument that disclosure of the information would cause substantial harm to X's competitive position. An example of information previously disclosed to the public is financial information contained in the published annual reports of widely held public corporations.

(5) *Information within the ambit of personal privacy.* Information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, despite the fact that identifying details are deleted pursuant to paragraph (a)(1) of this section. Personal privacy information encompasses embarrassing or sensitive information that a reasonable person would not reveal to the public under ordinary circumstances. Matters of personal privacy include, but are not limited to, details not yet public of a pending divorce, medical treatment for physical or mental disease or injury, adoption of a child, the amount of a gift, and political preferences. A clearly unwarranted invasion of personal privacy exists if from analysis of information submitted in support of the request for a written determination it is determined that the public interest purpose for requiring disclosure is outweighed by the potential harm attributable to such invasion of personal privacy.

(6) *Information concerning agency regulation of financial institutions.* Information contained in or related to reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions concerning examination, operation or condition of a financial institution, disclosure of which would damage the standing of such financial institution.

(7) *Information concerning wells.* Geological or geophysical information and data, including maps, concerning wells.

(b) *Manner of deletions.* Whenever information, which is not to be disclosed pursuant to section 6110(c), is deleted from the text of a written determination or background file document, substitutions therefore shall be made to the extent feasible if necessary for an understanding of the legal analysis developed in such written determination

or to make the disclosed text of a background file document comprehensible. Wherever any material is deleted, an indication of such deletion, and of any substitution therefor, shall be made in such manner as the Commissioner deems appropriate.

(c) *Limitations on the making of deletions.* Any portion of a written determination or background file document that has been deleted will be restored to the text thereof—

(1) If pursuant to section 6110(d)(3) or (f)(4)(A) a court orders disclosure of such portion, or

(2) If pursuant, to § 301.6110-5(d)(1) an agreement is reached to disclose information.

[T.D. 7524, 42 FR 63414, Dec. 16, 1977]

§ 301.6110-4 Communications from third parties.

(a) *General rule.* Except as provided in paragraph (b) of this section a record will be made of any communication, whether written, by telephone, at a meeting, or otherwise, received by the Internal Revenue Service or Office of its Chief Counsel prior to the issuance of written determination from any person other than a person to whom the written determination pertains or the authorized representative of such person. This rule applies to any communication concerning such written determination, any communication concerning the request for such written determination, or any communication concerning other matters involving such written determination. A notation that such communication has been made shall be placed on such written determination when it is made open to public inspection or available for inspection upon written request pursuant to § 301.6110-5. The notation to be placed on a written determination shall consist of the date on which the communication was received and the category of the person making such communication, for example, Congressional, Department of Commerce, Treasury, trade association, White House, educational institution. Any person may request the Internal Revenue Service to disclose the name of any person about whom a notation has been made pursuant to this paragraph.

(b) *Limitations.* The provisions of paragraph (a) of this section shall not apply to communications received by the Internal Revenue Service from employee of the Internal Revenue Service or Office of its Chief Counsel, from the Chief of Staff of the Joint Committee on Internal Revenue Taxation, from the Department of Justice with respect to any pending civil or criminal case or investigation, or from another government agency in response to a request made by the Internal Revenue Service to such agency for assistance involving the expertise of such agency.

(c) *Action to obtain disclosure of identity of person to whom written determination pertains—(1) Creation of remedy.* With respect to any written determination on which a notation has been placed pursuant to paragraph (a) of this section, any person may file a petition in the United States Tax Court or file a complaint in the United States District Court for the District of Columbia for an order requiring that the identity of any person to whom such written determination pertains be disclosed, but such petition or complaint must be filed within 36 months of the date such written determination is made open or subject to inspection.

(2) *Necessary disclosure.* Whenever an action is brought pursuant to section 6110(d)(3), the court may order that the identity of any person to whom the written determination pertains be disclosed. Such disclosure may be ordered if the court determines that there is evidence in the record from which it could reasonably be concluded that an impropriety occurred or undue influence was exercised with respect to such written determination by or on behalf of the person to whom the written determination pertains. The court may, pursuant to section 6110(d)(3), also order the disclosure of any material deleted pursuant to section 6110(c) if such disclosure is in the public interest. The written determination or background file document with respect to which the disclosure was sought shall be revised to disclose the information which the court orders to be disclosed.

(3) *Required notice.* If a proceeding is commenced pursuant to section 6110(d)(3) and paragraph (c)(1) of this section with respect to any written de-

termination, the Secretary shall send notice of the commencement of such proceeding to any person whose identity is subject to being disclosed and to the person about whom a third-party communication notation has been made pursuant to section 6110(d)(1). Such notice shall be sent, by registered or certified mail, to the last known address of the persons described in this paragraph (c)(3) within 15 days after notice of the petition or complaint filed pursuant to section 6110(d)(3) is served on the Secretary. For further guidance regarding the definition of last known address, see § 301.6212-2.

(4) *Intervention.* Any person who is entitled to receive notice pursuant to paragraph (c)(3) of this section shall have the right to intervene in any action brought pursuant to section 6110(d)(3). If appropriate such person shall be permitted to intervene anonymously.

[T.D. 7524, 42 FR 63415, Dec. 16, 1977, as amended by T.D. 8939, 66 FR 2819, Jan. 12, 2001]

§ 301.6110-5 Notice and time requirements; actions to restrain disclosure; actions to obtain additional disclosure.

(a) *Notice—(1) General rule.* Before a written determination is made open to public inspection or subject to inspection upon written request, or before a background file document is subject to inspection upon written request, the person to whom the written determination pertains or background file document relates shall be notified by the Commissioner of intention to disclose such written determination or background file document. The notice with respect to a written determination, other than a written determination described in § 301.6110-1(b) (2) or (3) shall be mailed when such written determination is issued. The notice with respect to any written determination relating to accounting or funding periods and methods, any technical advice memoranda involving civil fraud and criminal investigations, and jeopardy and termination assessments, and any background file document shall be mailed within a reasonable time after the receipt of the first written request for inspection thereof.